

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**CHERYL VANDEVENDER,**

**Petitioner,**

v.

**Civil Action No. 3:07cv122  
Criminal Action No. 3:03cr62  
(Judge Bailey)**

**UNITED STATES OF AMERICA,**

**Respondent.**

**ORDER DIRECTING RESPONDENT TO ANSWER § 2255 PETITION**

On July 15, 2005, the *pro se* petitioner's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody was filed in this Court. This case is before the undersigned for an initial review and report and recommendation pursuant to LR PL P 83.15, et seq. and an Order of referral dated August 12, 2005.

Pursuant to Rule 4 of the Rules Governing § 2255 Proceedings in the United States District Courts, the undersigned has made a preliminary review of the motion and finds that summary dismissal is not warranted. Accordingly, the **Respondent shall file an answer by October 1, 2007.** Respondents' answer shall comply with Rule 5 of the Rules Governing Section 2255 proceedings.

Petitioner has **thirty (30) days** after the date a response is filed to file any reply that she may have. **Pursuant to Rule 7 of the Federal Rules of Civil Procedure, no other pleadings will be accepted without the express order of the court upon a timely motion duly made.<sup>1</sup>**

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<sup>1</sup> "There shall be a complaint and an answer . . . [n]o other pleading shall be allowed, except that the court may order a reply to an answer . . ." Fed.R.Civ.P. 7(a).

IT IS SO ORDERED.

The Clerk is directed to send a copy of this Order and a copy of the petition to the United States Attorney for the Northern District of West Virginia, P.O. Box 591, Wheeling, WV 26003. The Clerk shall also send a hard copy of this Order and the petition to Assistant United States Attorney Thomas Mucklow, at 217 W. King Street, Suite 400, Martinsburg, WV 25401. In addition, Mr. Mucklow shall also receive electronic copies of this Order. The Clerk is further directed to mail a copy of this Order to the petitioner at his last known address as reflected on the docket sheet.

DATED: September 17, 2007

/s/ James E. Seibert  
JAMES E. SEIBERT  
UNITED STATES MAGISTRATE JUDGE